



Governor's Advisory Council for Exceptional Citizens (GACEC) 516 West Loockerman St., Dover, DE 19904  
302-739-4553 (voice) 302-739-6126 (fax) <http://www.gacec.delaware.gov>

October 30, 2019

Department of Education  
Office of the Secretary  
Attn: Regulation Review  
401 Federal Street, Suite 2  
Dover, DE 19901

**RE: 23 DE Reg. 263/14 DE Admin. Code 624 [DOE Proposed School District/Charter School Policy Prohibiting Cyberbullying Regulation (October 1, 2019)]**

Dear Secretary Bunting:

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed the Department of Education (DOE) proposal to amend 14 DE Admin. Code 624 which defines "cyberbullying" and requires school districts and charter schools [hereinafter: school districts] to prohibit cyberbullying. The regulation is being amended to remove an outdated school year reference, update a statutory citation, and to comply with 29 Del. C. §10407, which requires regulations to be reviewed on a recurring basis, every four years. The GACEC **supports** the proposed amendment and would like to share the following observations.

The proposed amendment strikes the statutory reference "14 Del. C. §4112D(b)(2)" from Section 1.0 and replaces it with the statutory reference "14 Del. C. §4164(d)." The full sentence of the proposed regulation reads as follows:

"In addition to the policy prohibiting bullying put in place by school districts and charter schools pursuant to 14 Del. C. §4164(d), each school district and charter school shall also prohibit cyberbullying (as defined herein) by students directed at other students."

The statutory reference in this sentence is placed adjacent to the term bullying rather than cyberbullying. The change is incorrect because the policy prohibiting bullying is 14 Del. C. §4164(b), whereas the policy prohibiting cyberbullying is 14 Del. C. §4164(d). A small move, or addition, of the statutory reference to the end of the sentence would then make the change correct. This could be addressed by changing the sentence one of two ways:

“In addition to the policy prohibiting bullying put in place by school districts and charter schools, each school district and charter school shall also prohibit cyberbullying (as defined herein) by students directed at other students pursuant to 14 Del. C. §4164(d).”

Or

“In addition to the policy prohibiting bullying put in place by school districts and charter schools pursuant to 14 Del. C. §4164(b), each school district and charter school shall also prohibit cyberbullying (as defined herein) by students directed at other students pursuant to 14 Del. C. §4164(d).”

The most notable change occurs in Section 2.4 of the proposed amendment. The proposal strikes the last sentence, which included an enumerated list of mediums where posting of speech would be presumed to be available to a broad audience within the school community for the 2013-2014 school year. It might be that DDOE proposed to strike the sentence because it included an outdated school year reference, and because of the ever changing social media technology. However, the regulation should still be explicit and enumerate examples of mediums where posting of speech would be presumed to be available to a broad audience within the school community. The DDOE can then indicate that this list is non-exhaustive.

Thank you for the opportunity to share our support of the proposed amendment and our suggested revisions with you. Please contact me or Wendy Strauss at the GACEC office if you have any questions.

Sincerely,

*Ann C Fisher*

Ann C. Fisher  
Chairperson

ACF: kpc

CC: Whitney Sweeney, State Board of Education  
Mary Ann Mieczkowski, Department of Education  
Emily Cunningham, Department of Education  
Linnea Bradshaw, Professional Standards Board  
Jenna Ahner, State Board of Education  
Rae Mims, Esq.